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September 17, 1996

Mr. Richard Smith, Chief
Office of Engineering and Technology
Federal Communications Commission
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DOCKET FILE COPY ORIGINAL

Mr. Donald Gips, Chief
International Bureau
Federal Communications Commission
2000 M Street, NW, Suite 830
Washington, DC 20554

William Kennard, Esq.
General Counsel
Federal Communications Commission
1919 M Street, NW, Room 614
Washington, DC 20554

Re: DSBC's September 13, 1996, Request to Forward Additional Documents to the
SDARS Review Panel (IB Docket No. 95-91; Gen Docket No. 90-357; PP-24;
PP-86; PP-87)

Dear Messrs. Smith, Gips and Kennard:

On May 18, 1990, CD Radio filed for a pioneer's preference in the Satellite Digital Audio Radio Service (SDARS). On June 13, 1993, in response to an FCC request, CD Radio filed a supplemental application for a pioneer's preference. Two other SDARS applicants filed their own pioneer's preference applications. All parties had an opportunity to file pioneer's preference applications and comments regarding these applications during the allotted periods provided by FCC rule. At no time in this process did any party file in opposition to any of the SDARS applications for pioneer's preference.

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In March 1996, CD Radio informed the FCC that, with a minor modification of its modulation scheme from TDM to CDM, it could accommodate the FCC's consideration of alternative frequency allocation plans. No parties objected or even commented in response.

Since April 1996, the FCC has been actively deliberating the issuance of a pioneer's preference to CD Radio. These deliberations have been widely reported in the press. By letter dated August 22, 1996, the FCC determined to resolve the pioneer's preference issue by seeking the review of independent satellite experts from four federal agencies. In a second letter dated August 30, 1996, the FCC extended the date by which it expected the review panel to complete its analysis from September 16, 1996, to September 23, 1996. Both of these letters were made public and were available to all the SDARS applicants.

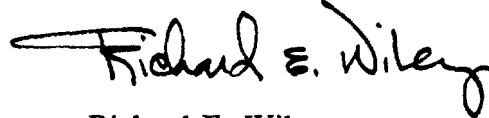
On September 13, 1996, DSBC, a competing SDARS applicant, through its attorneys filed a letter requesting that new objections contained therein and an attached statement should be sent to the review panel members. These newfound objections are based on CD Radio's comment and reply comment filed in September and October 1995 and letters filed in March 1996. Amazingly, DSBC's request comes nearly six months after the last-filed relevant CD Radio document was submitted and effectively only one week before the independent review panel is due to render its decision.

CD Radio believes that DSBC's contentions lack any technical merit and stands ready to demonstrate that fact in the event the FCC should desire it. CD Radio, however, objects strenuously to giving the review panel at this late date newly generated submissions analyzing documents that are at least a half-year old. To do so would encourage parties to "sit on their rights" and then, at the last moment, attempt to delay the panel and FCC decisions by precipitating a long exchange of ex parte submissions by numerous parties. The ample record on the pioneer's preference applications of CD Radio and the two other applicants has been developed over six years and provides more than a sufficient basis for the review panel and FCC to resolve this issue expeditiously. To effectively reopen this proceeding at this time and

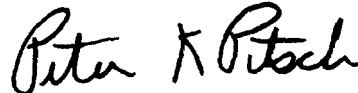
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after all that has gone before would make a mockery of Commission processes and work an enormous injustice against CD Radio, a company that has spent six years and over \$17 million striving to provide valuable new service to the American people.

Very truly yours,

A handwritten signature in black ink that reads "Richard E. Wiley". The signature is fluid and cursive, with a long horizontal stroke at the beginning.

Richard E. Wiley
Wiley, Rein & Fielding

A handwritten signature in black ink that reads "Peter K. Pitsch". The signature is cursive, with the first name "Peter" being more prominent than the last name "Pitsch".

Peter K. Pitsch
Pitsch Communications

/bap

cc: Mr. William Caton, Acting Secretary
Chairman Reed E. Hundt
Commissioner James H. Quello
Commissioner Rachelle B. Chong
Commissioner Susan Ness
Christopher Wright, Esq.
Peter Tenhula, Esq.
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